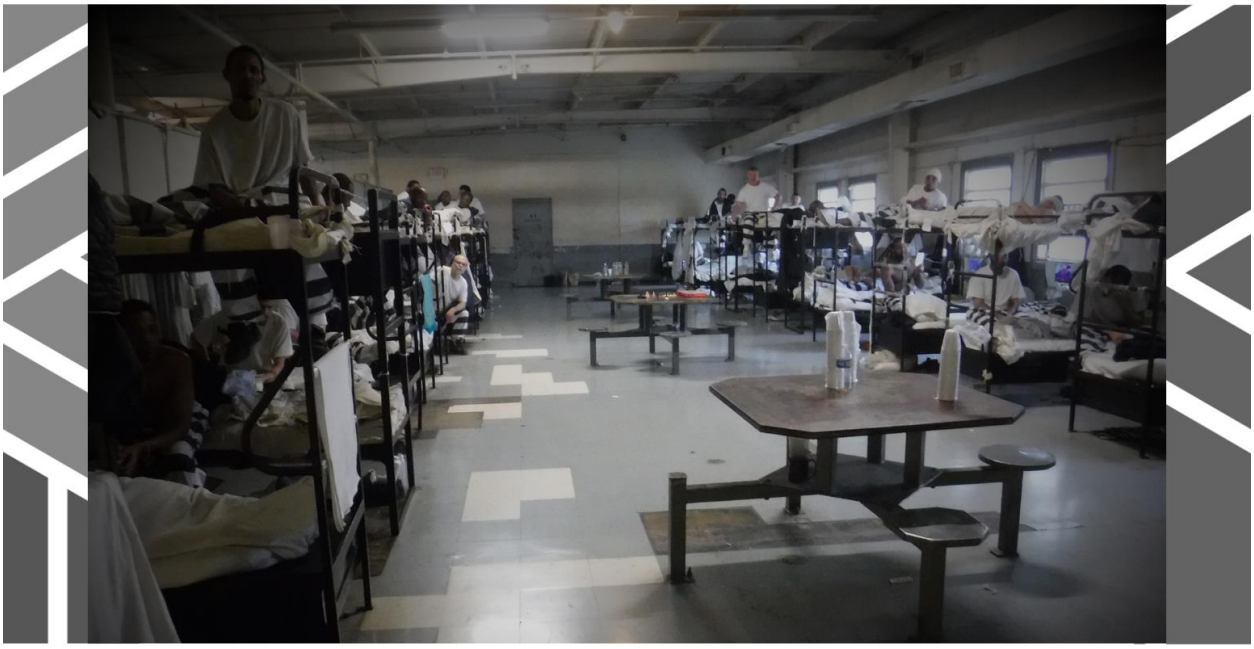
DISABILITY RIGHTS MISSISSIPPI

Cruel and Unusual Punishment in Mississippi Prisons:

A Tale of Abuse, Discrimination & Undue Death Sentences

A SPECIAL REPORT FROM DISABILITY RIGHTS MISSISSIPPI



EXECUTIVE SUMMARY

Investigations by Disability Rights Mississippi (DRMS) have revealed that, for many offenders incarcerated in Mississippi Department of Corrections (MDOC) facilities, what should be a simple prison sentence ends up being a death sentence. Offenders, even those with disabilities and serious physical and mental illnesses, are condemned to penitentiaries where systemic indifference, discrimination, and dangerous or life-threatening conditions are the norm.

The problems of MDOC facilities can be attributed to:

- **Inadequate Medical Staffing, including Medical Care and Mental Health Treatment**
- **Inadequate Staffing of Correctional Officers**
- **Inadequate Healthcare Policies and Practices**
- **ADA Non-Compliant Services, Procedures, Buildings and Utilities**

The Mississippi Department of Corrections (MDOC) is subjecting offenders to cruel and unusual punishment by acting deliberately indifferent to the serious medical needs of offenders in its custody. Inspections at Mississippi State Penitentiary (MSP), South Mississippi Correctional Institution (SMCI), and Central Mississippi Correctional Facility (CMCF), as well as interviews and affidavits of numerous offenders revealed the abhorrent conditions that offenders are forced to live with day after day. Furthermore, not only does MDOC subject offenders to barbaric, cruel, and unusual punishment, but they are also violating the rights of offenders with disabilities by failing to comply with the *Americans with Disabilities Act* (ADA). This blatant disregard for laws that protect the health of offenders reveal a lack of deference to the United States Constitution, ultimately causing harm and endangering the lives of offenders. MDOC has explicitly shown that saving money is more important than human life itself. Below are the consequences of such negligence (at MSP, CMCF, and SMCI):

- An offender currently battling stage III melanoma cancer has not seen a doctor since being transferred to the facility. This offender also advised that she has put in numerous medical requests to no avail. MDOC does not respond to her medical requests, nor her Administrative Remedy Program (ARP) requests related to this issue. **Therefore, she lives in constant pain daily.**
- An offender with a seizure disorder reported an episode in which he had four seizures because he received his medication late. In fact, it was hours later before the medical team even responded, due to there not being an officer on the zone. Once the other offenders were finally able to get the attention of a correctional officer, the correctional officer further delayed treatment and acted nonchalantly towards the offender's emergency. **This offender now has to wear a helmet and also requires assistance to walk.**
- An offender who was diagnosed with lupus, vertigo, and sleep apnea has trouble balancing himself in the shower and falls regularly. This offender has requested handrails for the shower to no avail. This offender also complains that it is a hassle to have medications refilled, so **he sometimes goes without.**
- An offender diagnosed with ADHD, OCD, and bipolar disorder has been routinely denied his psychiatric medications while being incarcerated. This offender advised that he frequently "snaps out of it," and is in and out mental health crises. This offender also advised that when he does act out, he is only put on suicide watch without supervision. **This offender, during suicide watch, recalls being told by a passing officer to go ahead and kill himself.**

- An offender who was experiencing complications from a total knee replacement **was refused pain medication after the surgery**. Further, she was never allowed a follow up visit after the procedure.
- One offender, who has heart issues and utilizes a pacemaker, has constant issues with his pacemaker and has been requesting to see a cardiologist for treatment since he was transferred into MDOC custody in 2015. When his interview was conducted in the spring of 2020, **the offender advised that he had yet to undergo proper treatment.**
- An offender with PTSD, bipolar disorder, arthritis, and heart complications needs heart stabilizer medications, as well as mood stabilizers. **MDOC has yet to treat this offender**.
- An offender who lives with high blood pressure, asthma, and diabetes takes 6 medications a day. He recalls guards refusing to seek medical help for him when he was once having an asthma attack and needing emergency assistance. **The guards refused, stating that because the offender was "standing and talking," he was fine.**

Offenders with disabilities face many forms of discrimination. Many offenders who use a wheelchair are not able to access critical areas of the facilities, such as the cafeteria, the shower, or the nurse's desk to receive medication during "pill call." Offenders wishing to receive medical care are expected to complete a written form to request it – a potential hurdle for those who are blind or have cognitive disabilities. Blind offenders are routinely asked to sign documents that they cannot even read. Many medications, including psychiatric medication, which causes serious side effects if doses are missed, are often changed and/or no longer administered without any discussion with offenders. Further, offenders are not allowed to give their input on whether specific medications work well for them. In addition, numerous offenders have been placed under "Do Not Resuscitate" and "Allow Natural Causes Death" orders without the offender's consent, nor close family's consent. The state's legal responsibilities are clear: **Mississippi has a constitutional obligation to provide adequate medical and mental health care to individuals in its custody.**

In 2011, the U.S. Supreme Court found in *Brown v. Plata* that depriving offenders of adequate medical care "is incompatible with the concept of human dignity and has no place in civilized society." Deliberate indifference to these medical needs constitutes "unnecessary and wanton infliction of pain" barred by the *Eighth Amendment*. Mississippi must also ensure that its prisons, programs, activities, and services are accessible to offenders with disabilities under Title II of the *Americans with Disabilities Act* (ADA) and Section 504 of the *Rehabilitation Act of 1973*. Instead, MDOC systematically violates federal law, leaving people with disabilities isolated, unable to participate in prison programs, and deprived of the medical care they so desperately need. Mississippi illegally operates correctional facilities. A conviction does not open the door for the state to engage in barbaric cruelty.

Further, a sentence to serve time in a correctional facility should not result in a death sentence. When Mississippi has ordered a person's incarceration, it must also accept the legal – and moral – responsibility that comes with incarcerating a human being. The offender, in essence, becomes a ward of the state of Mississippi; Mississippi is charged with providing adequate care for that offender, as it relates to housing, nutrition, and medical treatment. To put it plainly, Mississippi is not taking adequate care of its wards of the state.

ABOUT DRMS

Disability Rights Mississippi is the federally mandated protection and advocacy (P&A) agency for the state of Mississippi and was designated as such in 1982 by the Governor. The P&A system is a national network of disability rights agencies tasked with investigating abuse and neglect and

providing legal representation as well as other advocacy services to people with disabilities. To fulfill their duties, P&A agencies are given extensive access authority to:

- Investigate incidents of abuse and neglect;
- Provide information, referrals, and training about the rights of people with disabilities and about DRMS services;
- Monitor service providers and program compliance with respect to the rights and safety of residents; and
- Pursue administrative, legal, and other appropriate remedies to ensure the protection of the rights of Mississippians with disabilities.

DRMS conducted this investigation with access authority and funding as codified and delineated by Congress through Protection & Advocacy for Persons with Developmental Disabilities (PADD), Protection & Advocacy for Individuals with Mental Illness (PAIMI), and Protection & Advocacy for Individual Rights (PAIR).

Pursuant to DRMS' duties under PADD, PAIMI, and PAIR, DRMS also prioritizes projects regarding accessibility under the *Americans with Disabilities Act* (ADA) to ensure that Mississippians with disabilities have reasonable access to public facilities, buildings, and services. DRMS collaborates with other agencies and organizations on projects involving accessibility, voting rights, employment and housing issues, and a variety of other topics.

INADEQUATE STAFFING

Mississippi currently has over 19,000 offenders in custody. However, at almost every MDOC facility, the staff's vacancy rate is just short of 50%. Mississippi officials have known and commented on the astronomical ratio of offenders to correctional officers in MDOC facilities. The staff's high vacancy rate and correctional officer shortage presents many issues in regard to the facility's security. It is well-known within facilities that offenders can potentially overpower correctional officers at any time. Many believe that the shortage is attributed to the low starting salary of correctional officers, which is under $25,000 a year compared to a national average of $32,000 annually. MDOC is a top heavy organization; although they have adequate management and supervisory roles, they lack support staff. In an article published by *News Mississippi* early last year, MDOC stated it needed, at minimum, 500 officers to continue to fulfill its public safety mission, provide court-ordered programs and expand its re-entry efforts. Right now, many educational and vocational programs/services are not being offered, primarily due to the lack of adequate staffing at MDOC facilities. Thus, offenders are not receiving support or treatment through services and programs like vocational programs, mental health counseling, alcohol and drug treatment, social services, religious and recreational services, and psychological and psychiatric services.

The inadequacy of staffing does not just stop at correctional officers; there is also inadequate staffing of medical providers, as it relates to basic medical care and mental health providers. MDOC had a contract with Centurion to provide medical services for MDOC facilities. However, that contract was voluntarily terminated by the provider (Centurion) in October 2020. MDOC now contracts with VitalCore to provide medical services to offenders in its custody. Even with a contracted provider, there were still serious shortages of doctors and nurses to provide medical care to offenders. Again, this can be attributed to low wages. During monitoring, the issue of inadequate

staffing was candidly admitted by administrators and discussed with DRMS on several occasions, if not every visit. The extraordinary understaffing of medical staff leads to a host of predictable problems with the delivery of medical care, including delays, failures to diagnose and treat, failures to follow-up, errors, and incomplete decisions to not treat seriously ill offenders. The understaffing is a direct result of the MDOC bid process for the medical services contract, a process that places far greater emphasis on the price of the contract, versus any other factor. Prison facilities must have adequate staffing levels as to total numbers, but also as to the distribution of professionals, in an effort to adequately treat each offender in its custody (*Estelle v. Gamble)*. MDOC has routinely failed to ensure adequate staffing, both as to gross numbers of mental health professionals, and as to quality and experience, of key mental health professionals. According to DRMS' investigations, half or more than half of MDOC's prison population should be receiving or receives some type of mental health treatment. Despite this fact, the level and quality of mental health staffing at MDOC facilities is woefully inadequate, and sadly, offenders are paying the price daily. **For example, numerous offenders have complained of symptoms for months without anyone addressing their concerns, only to be diagnosed with advanced stage cancer that is terminal by the time it is diagnosed. Further, prisoners with broken bones, burns, or other emergency conditions have waited hours, days, or even months for treatment,** DRMS has found.

- An offender with a seizure disorder reported an episode in which he had four seizures because he received his medication late. In fact, it was hours later before the medical team even responded, due to there not being an officer on the zone. Once the other offenders were finally able to get the attention of a correctional officer, the correctional officer further delayed treatment and acted nonchalantly towards the offender's emergency. This offender now has to wear a helmet and also requires assistance to walk.
- One offender who is a diabetic, has heart disease, kidney disease, and has strokes, complains that he does not receive his medications on time, which causes him to have convulsions. Medically, he is supposed to receive insulin every 12 hours or he will start seizing. He reports that nurses come hours late to deliver medication. As a result, his blood sugar spikes dangerously, causing him to faint and seize.
- An offender diagnosed with ADHD, OCD, and bipolar disorder has been routinely denied his psychiatric medications while incarcerated. This offender advised that he frequently "snaps out of it," and is in and out of mental health crises. This offender also advised that when he does act out, he is only put on suicide watch without supervision. This offender, during suicide watch, recalls being told by a passing officer to go ahead and kill himself.

The Supreme Court has repeatedly recognized that exposing prisoners to infectious diseases can constitute a violation of the *Eighth Amendment*. However, DRMS has found that MDOC has no effective system for preventing or managing infectious diseases. In recent years, there have been numerous tuberculosis (TB) and Hepatitis C outbreaks in Mississippi's prisons. In our investigations, DRMS has both witnessed and heard that zones where offenders are found to have TB and Hepatitis C are not effectively quarantined. At the time of writing, there is an outbreak of Hepatitis C at MDOC facilities. Documentation shows several offenders have been diagnosed, but not treated. This is also the case as it relates to high levels of COVID-19 infections, and even staph infections.

- One offender with high blood pressure and Hepatitis C complains that he has not been receiving any dietary meals or his treatments on time. Further, he alleges that he contracted Hepatitis C from the uncleanliness of the facility, and that his disease has been documented; however, the facility still refuses to administer treatment for him.

INADEQUATE HEALTHCARE

The *8th Amendment* to the *U.S. Constitution* provides offenders the freedom from "cruel and unusual punishment," and the denial of medical care certainly constitutes cruel and unusual punishment. Mississippi has a constitutional obligation to provide adequate medical care to the individuals in its custody. A prison that deprives offenders of adequate medical care is incompatible with the concepts of human dignity and has no place in civilized society. "[D]eliberate indifference to serious medical needs of offenders constitutes the "unnecessary and wanton infliction of pain," proscribed by the *Eighth Amendment*. Deliberate indifference can be "manifested by prison doctors in their response to the [prisoner's] needs or by prison guards in intentionally denying or delaying access to medical care or intentionally interfering with the treatment once prescribed."

Our investigations have uncovered extensive evidence that MDOC is deliberately indifferent to the serious medical needs of offenders in the state's custody. MDOC violates the rights of offenders and does not meet the basic requirements of correctional medical care, which results in offenders being subjected to unnecessary and significant pain, suffering, and sometimes death. Among other deficiencies, MDOC does not have sufficient qualified staff at its facilities, resulting in delays in and denials of treatment, medication errors, inadequate procedures for preventing outbreaks of infectious diseases, inadequate responses to such outbreaks, inadequate chronic care, failures to diagnose serious illnesses, failures to adequately respond to emergencies, and improper denial of care at the end of life.

Again, the failure to provide medical care when an offender has a known, serious medical need is deliberate indifference. The government's obligation to provide medical care for those whom it is punishing by incarceration is, again, recognized in *Estelle v. Gamble*. "An inmate must rely on prison authorities to treat his medical needs; if the authorities fail to do so, [then] those needs will not be met." In worst cases scenarios, such a failure may actually produce physical "torture or a lingering death." "In less serious cases, denial of medical care may result in long term pain and suffering, which would not further any penological purpose." The infliction of such unnecessary suffering is inconsistent with contemporary standards of decency. "We therefore conclude that deliberate indifference to serious medical needs of prisoners constitutes the "unnecessary and wanton infliction of pain," *Gregg v. Georgia*, proscribed by the *Eighth Amendment*. Furthermore, "this is true whether the indifference is manifested by prison doctors in their response to the prisoner's needs, by prison guards in intentionally denying or delaying access to medical care, or intentionally interfering with the treatment once prescribed." Regardless of how evidenced, deliberate indifference to a prisoner's serious illness or injury states a cause of action under *Section 1983*. Offenders in MDOC custody are routinely denied medical care, or given care that is so cursory or grossly incompetent that it demonstrates deliberate indifference. As a result, offenders die at the hands of the facility itself. We have received numerous complaints surrounding MDOC's lack of adequate medical care from offenders. They are the first to report other offenders' deaths as a result of lack of care and treatment.

A prison system can demonstrate deliberate indifference by failing to provide adequate medication, including pain relief. In our investigations, numerous offenders reported that they have had problems with the receipt of medication. In many cases, offenders reported being given the wrong medication entirely. One offender recalled having been given incorrect medications three times, while another recalled five instances. Also, numerous offenders in various prisons recounted stories of other

offenders who died after being given the wrong medication. In other cases, offenders report not having received all the medications that they were prescribed. Several offenders describe medications running out before the end of the prescription. When this occurs, there is often a lengthy delay before the prescription can be restarted, as the prisoner is required to go through the sick call process, first to the nurse and then to the doctor.

- One offender who is in a wheelchair and has several medical conditions requiring medication reports that he sometimes does not receive his medication because he is unable to make it to pill call without help, and the guards will neither push his wheelchair nor allow anyone else to do so.
- One offender was prescribed a medication for her mental health symptoms and a medication to control the side effects of the first medication; she is routinely denied the side effects medication.
- **Additionally, nearly all offenders interviewed reported that they were not informed of the purpose, side effects, and benefits of medications prescribed to them.**

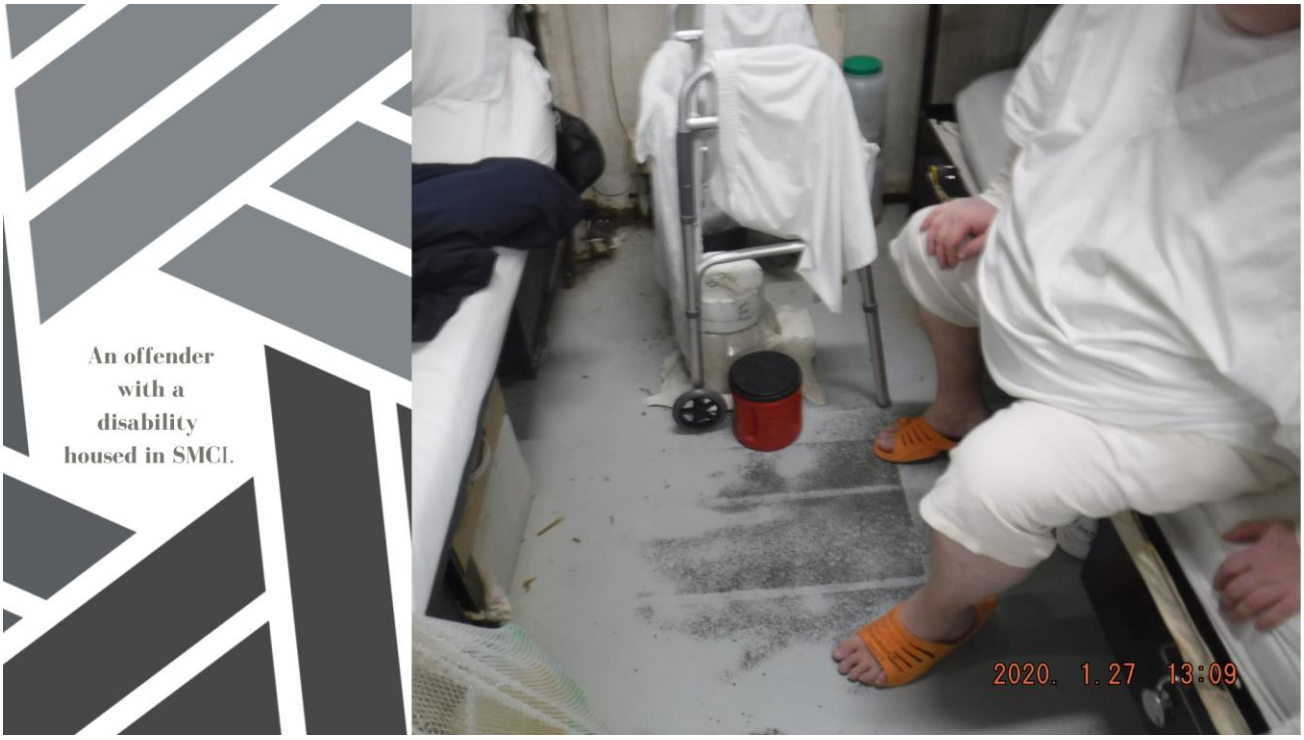
In some cases, offender's long-term prescriptions are cut off or changed without any explanation or consultation with the prescribing physician. For example, one offender reported that the prescription for pain medication he had for two years for a chronic and painful medical condition was abruptly discontinued without any discussion with or examination by medical staff. Several diabetics have reported that their diabetes medication was recently changed, even though they had not seen a doctor. One of these individuals reported that he now experiences more swings in his blood sugar level, has to urinate more often, and suffers from more headaches. Offenders also report that when they are prescribed medications that should be taken only on an as-needed-basis, they are not allowed to keep the medications on their person. Further, the prescriptions will be cut off if they do not come to pill call to take the medication on a daily basis. Several offenders often claim that even after receiving psychotropic medications, they do not receive periodic checkups with a psychiatrist afterwards. **The only contact that offenders oftentimes have with a mental health professional is when they are exhibiting suicidal ideations or actions.**

ADA VIOLATIONS

People with disabilities often encounter discrimination throughout the prison system. They are segregated from other prisoners. They are excluded from work release programs solely for their disabilities. Prisoners in wheelchairs are unable to access parts of the prisons, even when barriers could be removed with relative ease and limited expense. **An offender with a hearing impairment recalls being hit by a corrections officer for not responding to an order he could not hear.**

MDOC is systematically violating federal law, including, but not limited to, *Title II of the Americans with Disabilities Act* (Title II or ADA), and Section 504 of the *Rehabilitation Act of 1973* (Section 504 or Rehab Act), by discriminating against offenders with disabilities. Physically inaccessible facilities, lack of an oral method to request medical care, lack of sign language interpreters, and segregating offenders with disabilities are just a few examples of how MDOC is illegally discriminating against offenders with disabilities. The ADA, as amended, provides a "clear and comprehensive national mandate for the elimination of discrimination" against individuals with disabilities. Title II was enacted to broaden the coverage of Section 504, which prohibits discrimination in any programs or activity that receives federal financial assistance, including programs and activities of state and local governments. Title II extends these protections to all states and local government activities, including those that receive no federal funds. Both laws prohibit

public entities from excluding persons with disabilities from the services, programs, activities, or otherwise discrimination against persons with disabilities.



When enacting the ADA, Congress found that "individuals with disabilities continually encounter various forms of discrimination, including outright intentional exclusion, . . . segregation, and regulation to lesser services, programs, activities, benefits, jobs, or other opportunities." "State prisons fall squarely within the statutory definition of 'public entity,'" and prisons and offenders are included in its coverage. "Modern prisons provide inmates with many recreational 'activities,' medical 'services,' and educational and vocational 'programs,' all of which at least theoretically 'benefit' offenders." One of the implementing regulations to Title II provides "No qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subject to discrimination by any public entity." This broad prohibition against discrimination is very similar in substance to Section 504.

MDOC continues to discriminate against offenders with disabilities in many ways, including but not limited to, failing to remove architectural barriers, failing to provide even reasonable modifications in policies and procedures, failing to provide auxiliary aids and services necessary for effective communications, improperly segregating offenders with disabilities, and engaging in contractual arrangements that limit access to appropriate healthcare for offenders with disabilities. Guards at some facilities have even informed offenders in wheelchairs that they cannot be pushed by other prisoners. Several of the offenders who have reported this issue have had strokes and have limited use of one hand, making it nearly impossible for them to push their own wheelchairs. This policy excludes offenders who use wheelchairs from the most basic services of the prison system, including medical care, food, and even access to bathroom facilities. Moreover, when a prisoner needs medical care, he or she must complete a written form requesting it. Every MDOC facility has boxes to submit the medical slips. It may seem like a simple process, but for a prisoner with an intellectual disability or vision impairment, filling out a form can be a major obstacle. Prisoners with disabilities

also have reported that they are excluded from work release programs, solely due to their disabilities. These repeated actions by MDOC constitute discrimination against offenders with disabilities in violation of Title II and Section 504.

MDOC HAS NOT MADE REASONABLE MODIFICATIONS IN POLICIES AND PROCEDURES.

Title II regulations also require MDOC to "make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability." Perhaps, the most glaring MDOC policy that discriminates against offenders with disabilities is the requirement that offenders complete a written form to request medical care, even for emergency medical care. During monitoring visits, DRMS observed that every MDOC facility utilizes boxes to submit written "medical slips." This is not an ideal way of requesting medical care, because there are offenders with vision and/or intellectual disabilities, as well as mental illnesses that may have difficulty completing the necessary forms and paperwork to receive medical care.

Some offenders with disabilities have reported that they are excluded from work release programs solely because of their disability. There are so many offenders who desperately want to work within the facility, but have not been given the opportunity to do so. Generally, work release is considered a critical benefit that allows offenders to develop skills, begin reintegration into society, earn money, and demonstrate parole readiness. Finally, a policy of excluding persons with disabilities clearly violates the ADA and *§ 504 of the Rehabilitation Act*.

Guards at some facilities have informed offenders in wheelchairs that they cannot be pushed by other offenders and that the mobility impaired offender must push his or her own wheelchair. Several of the offenders who have reported this have had strokes, heart attacks, and other issues that may render limited use of one hand, or both, which would make it nearly impossible to push their own wheelchair. As a result, offenders oftentimes miss lunch, dinner, or both; they miss pill call; and they also may miss sick call or any other call that the zones utilize. This is unacceptable.

MDOC FAILS TO PROVIDE AUXILIARY AIDS AND SERVICES NECESSARY FOR EFFECTIVE COMMUNICATION.

MDOC must provide auxiliary aids and services necessary to achieve an effective communication for offenders with disabilities. Examples of such measures may include large print materials for offenders with low vision or a sign language interpreter for offenders who are deaf or hard of hearing. This has not been the case. In fact, offenders that fall within this category have simply gone without auxiliary aids or accessible communication services.

MDOC IMPROPERLY SEGREGATES OFFENDERS WITH DISABILITIES.

Sadly, MDOC has a long history of segregating offenders with disabilities. This practice clearly contradicts Title II and its implementing regulations, which specifically require MDOC to "administer services, programs, and activities to [offenders] with disabilities." Regarding prisons specifically, "[p]ublic entities shall ensure that inmates or detainees with disabilities are housed in the most integrated setting appropriate to the needs of the individuals."

DRMS has found that many offenders have been disproportionally placed in the system. Even more, while there is no legally justifiable reason for MDOC's housing classification, the classification can present security issues for offenders with disabilities. Offenders with disabilities who

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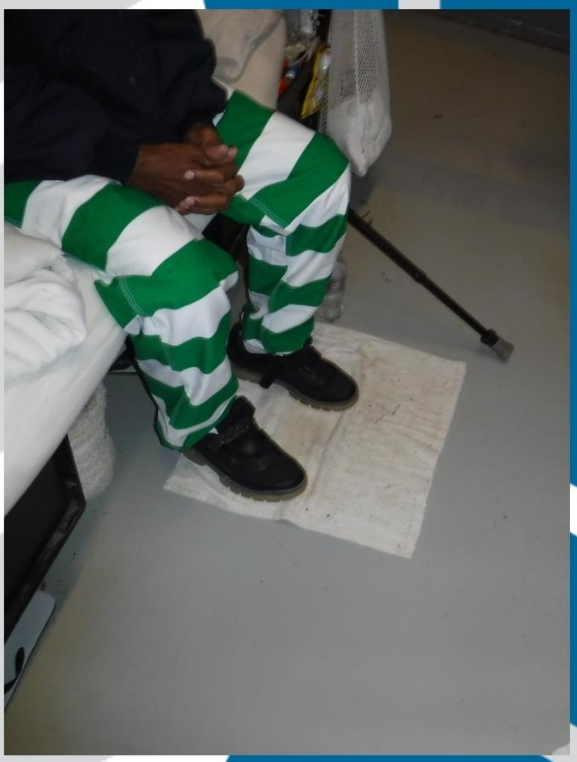
THE NUMBER OF SEIZURES ONE OFFENDER HAD IN ONE EPISODE BECAUSE HE RECIEVED HIS MEDICATION LATE.



50%

APPROXIMATE RATE OF STAFF VACANCIES AT MDOC FACILITIES.

6

THE NUMBER OF MONTHS ONE OFFENDER HAS GONE WITHOUT A SHOWER BECAUSE THE FACILITIES ARE INACCESSIBLE.

100%

OF FACILITIES AT MSP, SMCI, AND CMCF THAT PRESENT BARRIERS AND ACCESSIBLITY ISSUES FOR OFFENDERS WITH DISABILITES.

are housed in lockdown units are subjected to higher degrees of violence. One may question how an offender who uses a wheelchair protects himself (as a minority in a lockdown zone) when he is housed in a building that is and has been completely designated for offenders without mobility impairments. We are unsure about the answer to that question, as it is one that must be answered by MDOC. However, Title II's implementing regulations specifically prohibit placing offenders with "disabilities in inappropriate security classifications, because no accessible cell or beds are available.

MDOC HAS FAILED TO REMOVE ARCHITECTURAL BARRIERS AT FACILITIES.

Although MDOC is not generally required to undertake architectural renovations to improve accessibility for facilities built before 1992, it must, however, remove architectural barriers when it can be done with relative ease and at limited expense. Further, MDOC must ensure that it operates "each service, program, or activity, so that the service, program, or activity, when viewed in its entirety, is readily accessible to and usable by [offenders] with disabilities." It is also discriminatory to deny an offender access to and participation in services, programs, and activities because the facility is not accessible. MDOC consistently houses offenders with mobility impairments in facilities that are not accessible.

Every Housing Facility at CMCF Presents Architectural Barriers and Accessibility Issues for Offenders with Mobility Impairments:

The **Reception/Classification Building**, which is considered the facility's mental health observation section, lacks ramping in the shower area. Offenders reported a lack of medical care, advising that, while housed in this particular area, their medical calls are ignored. **One offender advised that he had been waiting for the facility to respond to a medical call for 8 weeks.**

The **1A Yard, A building** houses 180 offenders—some with mobility issues. We observed that the ceilings in the bathroom area were in total need of repair. The offenders housed there have experienced **serious sewage flooding**, due to the facility's severe plumbing issues. Also, we found accessibility issues in the restroom areas: lack of railing around any of the zone's commodes, and a thick barrier protruding in the entryway of the shower. There was no ramp for offenders who use a wheelchair or walk with canes. We also found an abundance of mold growing alongside the facility's walls, where offenders are housed.

The **1A Yard, B Building** also houses 180 offenders, and experiences many of the same issues as the buildings above. This building also has sewage backup, which creates flooding in the restroom areas on a regular basis; there are complaints of no hot water whatsoever, and that **the drinking water is brown**. The vents on the zone are clogged and filled with thick dust. The building also does not have a water fountain, therefore offenders have to drain water from the sink or the shower.

The **1A Yard, C Building**, also houses 180 offenders. We found inoperable sinks, leaving 180 offenders to share two sinks. There were no water fountains, and the ceilings were in great need of repair, especially in the restroom. Again, we received complaints of lack of hot water and sewage buildup that floods the restroom areas.

The **Quick Bed, A Building, B Zone**, was also riddled with flooding. The flooding is so bad that the offenders use their own products in an attempt to stop the flooding—that is, **the offenders are forced to utilize their feminine hygiene products to stop flooding on the zone**.

A wall of feminine hygiene products used by offenders to prevent sewage from leaking into their sleeping quarters at CMCF.

The **Quick Bed, B Building, B Zone**, houses 140 offenders. We observed that some of the offenders used wheelchairs or required mobility assistance. In this building, we found many inoperable commodes, and that the roof was in immediate need of repair. This building, like many of the aforementioned buildings, experiences sewage flooding as well.

The **Quick Bed, B Building, C Zone**, houses 140 offenders in total. There, we found inoperable sinks and toilets, and we found that the ceiling was in great need of repair. We also found that there was a barrier in the entryway of the shower, which causes accessibility issues for offenders with mobility issues.

The **Quick Bed, C Building, D Zone,** houses 140 offenders, and we found that there was no railing around the toilets for offenders, and that there was a barrier in the entryway of the shower, without a ramp. **We found what appeared to be black mold that had fresh painting over it.** Offenders advised that there is almost never a guard in the tower to watch over them, and that when they need a guard for something, they sometimes have to wait for hours before someone responds. We found many offenders with mobility issues that would be better suited if they were moved to a unit equipped for those with disabilities.

The **Women's Maximum Security Unit**, which houses the female death row offenders, had offenders with mobility issues and one offender with a prosthetic leg. They generally complain of cold temperatures on the zone to no avail.

The **720 Medical/Administration Unit** holds a total of 54 offenders and everyone in the building presented some type of physical or mental disability. Many of the offenders used wheelchairs. We found that many offenders complained that the shower floor was slippery, causing them to fall, and that the shower chairs they were given were also slippery. **Also, we found that there were no hand rails in the shower, nor around the restroom commodes.** Additionally, we found mold in

the restroom area. We found there were some offenders in need of shower chairs who have simply gone without. We also received some complaints in regards to pill calls. Due to obstacles, offenders with mobility issues are not able to make pill call or are not able to make it fast enough, and the nurses refuse to bring them their medication. As a result, these offenders miss their medication.

Every Housing Facility at SMCI Presents Architectural Barriers and Accessibility Issues for Offenders with Mobility Impairments:

Area I: Unit 7, Zones A & B are medium protective custody units, which house a total of 160 offenders each. These units are single man cells with open concept common areas. In this unit, DRMS observed: broken lights, exposed wires and cavities in the walls, inoperable urinals and toilets, mold covering the walls of personal cells, and missing tile in the flooring of the community shower. No rails were noted in the shower area, nor around the commodes in the cells. Also, during this monitoring session, there was no air circulation noted.

In **Area II, Zones A & B** are an open bay concept that utilize bunkbeds for two offenders that are about 3 inches apart from one another. There, we found concrete flooring in the shower that was not non-slip. We also found exposed wires and deep exposed wall cavities. We found inoperable urinals and toilets, such that only 1 out of 4 urinals were working, and only two operable toilets for about 160 adult men. DRMS observed tattered ceilings and flooring in the unit. We found mold in wall crevices, and plug fixtures hanging from the walls. **What was most disturbing is that we found offenders who were sleeping on steel bunkers without a mattress** There were large fans and vents to improve air circulation in the buildings, but they were covered with visibly thick dust particles. There was flooding observed on the floor that was obstructed with towels all over the zone.

Area II, Unit A1, A Building holds a total of 200 offenders. This building presented no cameras on the zone and had many of the same issues as the preceding units, such as inoperable sinks and toilets, lack of railing in shower units, lack of railing around commodes, and barriers (steps) leading into the shower. Though these may seem like small inconveniences for that of a normal person, for offenders with limited mobility (such as those using canes, wheelchairs, and/or walkers) **these architectural barriers cause great hardship daily**. In addition, we found that the flooring of the shower was tattered and missing tile, in addition to a missing ceiling over the shower, which exposes wires.

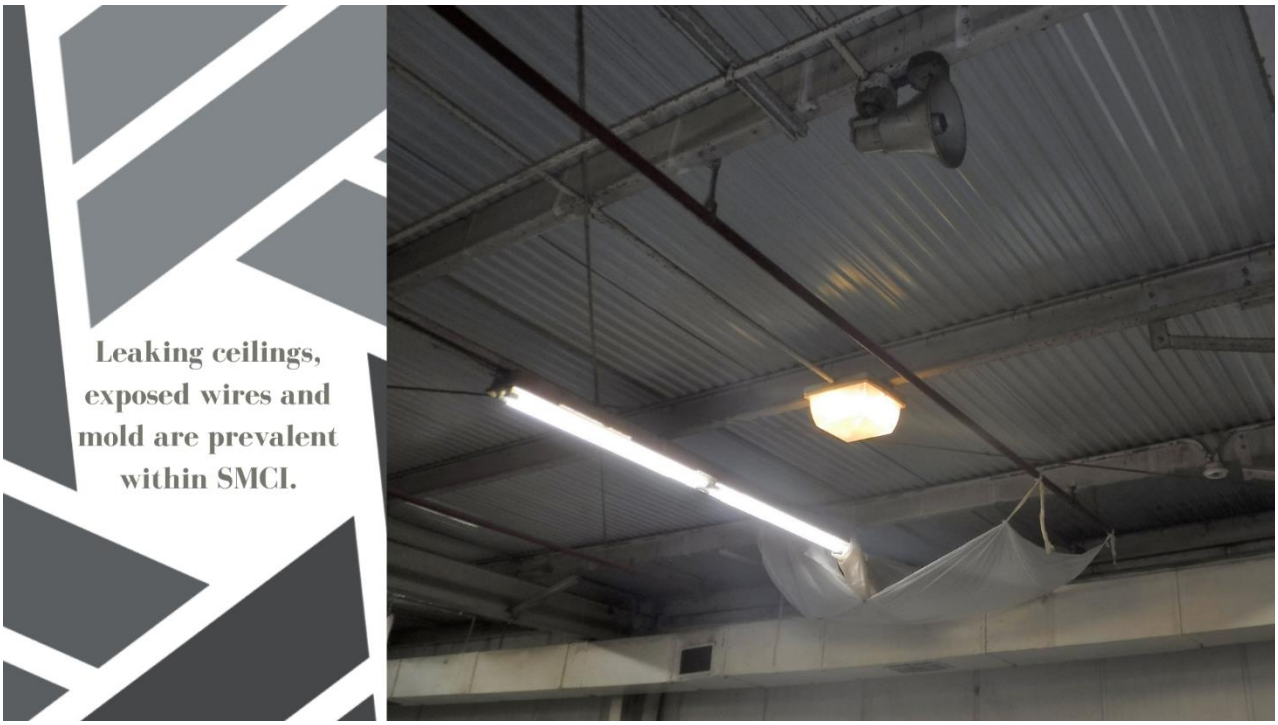
Medical Services/ Infirmary of Area II had 10 rooms occupied at the site visit. DRMS' initial observations was that the rooms had exposed wires in wall cavities. Again, we found some offenders had no mattress and were sleeping on steel bunks. We found standard hospital cells and isolation rooms; however, none of the commodes in the offender's room had hand rails for those offenders that presented mobility impairments.

Maximum Security Unit (MSU) houses a total of 36 offenders. This unit presented no air or heat, as well as mold and exposed wires in cavities in walls. The ceilings were in total need of repair and there were no ramps noted in the entry way of the shower. We also found mold in individual cells. Offenders in this unit complained of a lack of any outdoor recreation. **They advised that they sit in their cells for the entirety of each day.**

D Building (of Area I and II) houses a total of 200 offenders, with 100 on each side. Although newer looking, this unit presented many of the same issues that the former units presented. The unit has no air conditioner. DRMS observed exposed wires in the walls and ceilings, moldy areas on the

zone, and leaks in different areas on the zone. We also found inoperable sinks and toilets. We found offenders with mental and physical disabilities who face difficulty maneuvering throughout the zone.

E1 Building (Alcohol/Drug/Pre-Release) houses a total of 200 offenders as well—100 on each side. This unit presented inoperable toilets and urinals, **live wires in the flooring where the offenders must walk to carry out daily functions,** large holes in the ceilings, visible flooding and sewage spillovers, and lack of roofing in the showers.



Unit 8, also known as "general population," houses a total of 104 offenders. The glaring issue in this unit is that the ceilings are in dire need of repair. In addition, the ceilings are moldy and pose a great risk of potential harm for offenders that are housed there.

Unit 9 houses a total of 160 offenders and this building could possibly be the worst of them all. This building has ceilings that were leaking fluids on the offenders' housing areas. DRMS also **discovered what appeared to be severe black mold in the bathroom area**, which poses great risk of potential harm for offenders housed there.

Building 12 houses a total of 160 offenders, some having mobility impairments as the result of a disability. Those offenders with mental and physical disabilities face daily difficulties maneuvering throughout the zone.

Every Housing Facility at <u>MSP</u> Presents Architectural Barriers and Accessibility Issues for Offenders with Mobility Impairments:

Building 28, which houses a total of 189 offenders, some of whom have physical disabilities. At Building 28, offenders with mobility impairments have issues with the inaccessible shower. No rails were noted in the shower area, nor around the commodes in the cells. To make matters worse, an

offender must traverse a step to enter the shower, which makes it extremely difficult, if not physically impossible, to enter the shower and use the shower independently. **In addition to observing no water fountains or drinking water for offenders, DRMS also observed that offenders with disabilities find it difficult to eat in the dining hall as the dining hall is inaccessible to them.**

In **Building 29**, we found that all units had accessibility issues and were in violation of the ADA. While, at the time of monitoring, some units did not present offenders with mobility issues, there were some that did, such as in 29B, 29F, and 29H. There, **we found offenders who use wheelchairs, canes, and walkers, who reported difficulty with going to and from the shower, slipping in the shower, getting on and off the commode, commuting to the dining hall (when allowed), as well as responding to pill calls.** Specifically, in building 29F, which is home to approximately 128 offenders, DRMS found trash sprawled everywhere on the floor, buckets set up around the zone to hold incoming water from the roof, inoperable sinks and toilets in individual cells, and again, no railing around the commodes, nor the showers. There was no non-slip flooring in the shower, and no shower chairs available for offenders that required or needed them. We have received reports that offenders are forced to share shower chairs because the facility refuses to provide offenders with shower chairs of their own. Furthermore, offenders that have limited mobility are again required to traverse a step leading into the shower area, which acts as a barrier.

Building 30, also known as the Alcohol and Drug Program, holds a total of 216 offenders with 108 on each zone (A & B). This building presents many of the same issues as the preceding units, such as inoperable sinks and toilets, lack of railing in shower units, lack of railing around commodes, and steps leading into the shower. Though these may seem like small inconveniences for that of a normal person, however, for offenders with limited mobility (using canes, wheelchairs, and/or walkers), these architectural barriers cause great hardship every day. In addition, we found that the flooring of the shower was tattered and missing tile, and there is missing ceiling over the shower, which exposes wires. Two offenders who use wheelchairs are housed in the building, and both complained of the thick barriers in the entryway of the shower. **One of these offenders advised that he had not showered since he had been transferred to MSP (well over six months at the time) because he could not get in with his wheelchair and had no shower chair.** He advised that he resorts to taking sponge baths instead. This is unacceptable and is in violation of the ADA.

In **Building 31**, which is generally known as the "disability building," there are four units, which house around 70 offenders each. This building generally has more ADA accommodations for offenders with disabilities. However, there are still some needed accessibility renovations that are cost efficient, would not present difficulty, nor be an undue burden on the facility. Foremost, due to the fact that there are many more offenders classified as having a disability/or needing mobility assistance, there is not enough room to accommodate these offenders. There are offenders with disabilities that should be housed at Building 31, but are not, because there is not enough room. Therefore, only offenders with the most complex disabilities are housed in Building 31, which leaves some offenders to be housed in other buildings without ADA accommodations. **Although Building 31 is designated as the disability building, there is only one accessible bathroom on each zone.** The other commodes are regular toilets (without hand rails). There needs to be more accessible bathrooms to accommodate the needs of offenders with disabilities who can only utilize those facilities. In addition, there are urinals that are inoperable and the showers lack nonslip flooring.

An inaccessible, inoperable toilet in MSP.

In **Building 42**, known as "the hospital," there are four zones. At the hospital, all offenders are undergoing treatment for various disabilities, injuries, and/or illnesses. **Therefore, one would suspect that accessible bathrooms would be present in single cells, but surprisingly, they were not.** We found standard hospital cells and isolation rooms; however, none of the commodes in the offender's room had hand rails. For each zone, there was only one bathroom at the entrance of the hall that was designated as accessible. This is unacceptable and does not suffice because an offender needing an accessible bathroom must leave his hospital room and walk all the way to the end of the hall to relieve himself. In addition, because there is only one accessible bathroom, the offender, more than likely, will have to wait. The hospital can hold up to 44 offenders on each zone.

Other issues that were documented while monitoring MSP housing facilities, but not mentioned previously, were showers with controls being placed at the very top near the shower head, which is not ADA-compliant, and the proximity of offender's beds. The beds are so close together that some of the wheelchairs cannot maneuver between the beds.

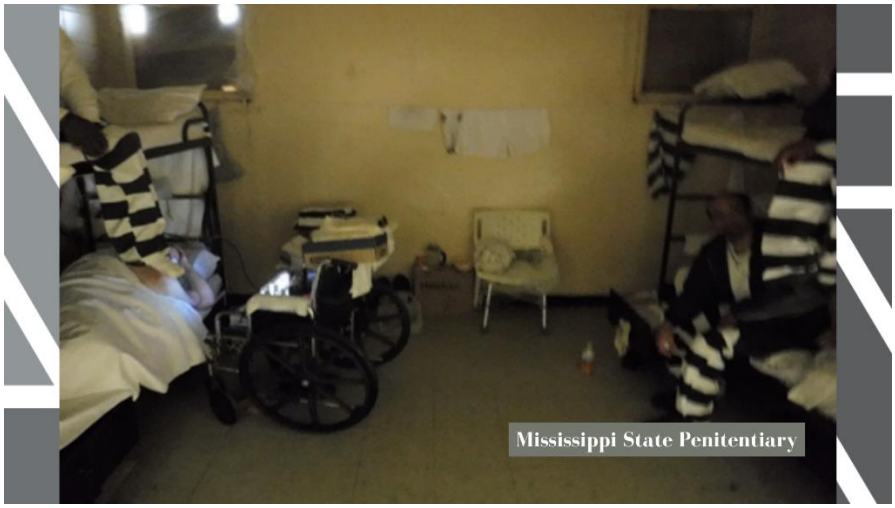
We are advocating for those offenders with disabilities to be placed in locations on the MSP campus that are accessible for them. MDOC cannot house offenders with mobility impairments in locations that are not accessible to them. During DRMS monitoring inspections, wardens and administrators of the facility indicated that offenders with disabilities are not housed in building that are not accessible for them. However, those assertions were repeatedly belied by the presence of offenders with disabilities housed in inaccessible buildings. Additionally, offenders themselves confirmed that they were housed in these buildings.

CONCLUSION

Federal law and the *U.S. Constitution* are clear about the treatment of offenders. The conditions that Disability Rights Mississippi found within MDOC facilities demonstrate a blatant disregard for the law that leaves offenders confined to dangerous and discriminatory facilities, which also places their health and lives at a deadly risk. The offenders mentioned in this report were not sentenced to abuse nor neglect. They were not sentenced to suffering from untreated infectious diseases. They were not sentenced to daily humiliation and hardships. However, this is the reality for individuals in MDOC's custody. It is a prison system that not only punishes people, but banishes their existing humanity. No statutory penalty can justify the conditions that these offenders live in, nor the lives that these conditions have already destroyed. Mississippi has an obligation to ensure its prison system does not violate the rights of offenders with disabilities. It must ensure that offenders receive constitutionally adequate medical and mental health care. The state of Mississippi must develop and implement a plan to meet its constitutional, statutory, and moral obligations to offenders. This plan should include efforts to:

- Maximize medical and mental health staff to ensure that offenders receive the care they need in a timely manner.
- Increase custody staff to ensure there are sufficient officers to monitor offenders and the zones.
- Eliminate architectural barriers in all buildings where offender with disabilities are housed.
- Ensure that appropriate assistance devices, communication methods, and services for offenders with disabilities are available.
- Eliminate policies and procedures that discriminate against offenders with disabilities.
- Establish an Americans with Disabilities Act (ADA) grievance procedure at each facility. This would allow offenders with disabilities to make direct contact with an ADA state official or an ADA Coordinator at/for the facility.

If the state of Mississippi is truly dedicated to justice and human rights, it will not disregard the blatant injustices that occur daily behind its prison walls. It would also not be slow to act or slow to provide remedies for redress for offenders. The time is **NOW** for Mississippi officials to uphold their legal obligations and address the correctional failures of the state, as it is long overdue.



For more photos from inside Mississippi's prisons, visit **drms.ms/prison**.

DISABILITY RIGHTS MISSISSIPPI

The mission of Disability Rights Mississippi is to promote, protect and advocate for the legal and human rights of all people with disabilities, and to assist them with full inclusion in home, community, education and employment.